

2007 JUL 18 PM 1:39

TCEQ DOCKET NO. 2007-1019-IHW

CHIEF CLERKS OFFICE

IN THE MATTER OF THE REQUEST	§	BEFORE THE
TO REMOVE WASTE MANIFESTED	§	
AS HAZARDOUS WASTE ISSUED BY	§	TEXAS COMMISSION ON
THE EXECUTIVE DIRECTOR TO	§	
PENSKE TRUCK LEASING CO., L.P.	§	ENVIRONMENTAL QUALITY

# EXECUTIVE DIRECTOR'S REQUEST FOR CONTINUANCE

TO THE HONORABLE GENERAL COUNSEL OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission), and files this Request for Continuance of the above-referenced matter and accordingly shows the following:

1) Texas Disposal System Landfill Inc. (TDSL or Petitioner) filed its Petition to Review the ED's Action and Order Proper Disposal of Hazardous Waste (Petition) on June 21, 2007. The ED was not served.

2) At approximately 4:00 p.m. on June 28, 2007, the General Counsel notified the parties that they were encouraged to file briefs with regard to the issues raised in the Petition no later than 5:00 p.m. on Wednesday July 11, 2007.

3) The ED, along with the Office of Public Interest Counsel, Penske Truck Leasing Co., L.P. and Texas Campaign for the Environment, filed briefs on July 11, 2007. The ED's Request for Denial of Consideration of TDSL's Petition sets forth that the Commission is without jurisdiction to consider this matter. The ED also requested an extension of the briefing schedule in order to file a comprehensive brief.

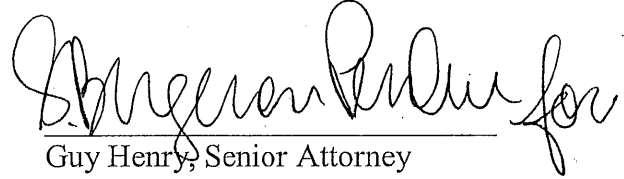
4) Two days later, at approximately 3:00 p.m. on July 13, 2007, the General Counsel, notified the parties that "having reviewed the Petition and related filings, [the General Counsel] has decided to set this matter for the Texas Commission on Environmental Quality's public meeting of **Wednesday, July 25, 2007**, beginning at **1:00 P.M.**" The ED's request for an extension of the briefing schedule was not addressed.

5) The ED respectfully requests that the General Counsel continue this matter until August 22, 2007 to allow agency legal and technical staff adequate time to do the following, in addition to other work-related responsibilities: a) re-direct their workload with respect to recent legislation with immediate effect; b) fulfill pre-existing filing

deadlines relating to other pending commission matters; c) review the July 11<sup>th</sup> filings in order to fully prepare for this matter; and d) review the record of the proceedings from 2004 commission meetings that prompted the filing of lawsuits by Petitioner currently pending in Travis County District Court.

6) The ED continues to, and re-asserts its objection to the General Counsel's unprecedented briefing schedule and expedited consideration of this matter based on Petitioner's specious allegations that Commission action is necessary.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Guy Henry", is written over a horizontal line.

Guy Henry, Senior Attorney  
Environmental Law Division  
Bar No. 00784257  
P.O. Box 130887, MC 173  
Austin, Texas 78711-3087  
512 239-6259

REPRESENTING THE  
EXECUTIVE DIRECTOR  
OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**Certificate of Service**

I hereby certify that on this the 18th day of July 2007, a true and correct copy of the Executive Director's Request for Denial was sent by first-class mail, agency mail, electronic transmission, or facsimile to the following:

**For the Office of the Chief Clerk**

Docket Clerk  
Office of the Chief Clerk  
TCEQ MC-105  
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**For the Commission**

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**Representing Texas Disposal Systems Landfill, Inc. (Petitioner)**

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The Honorable Kirk Watson  
Mr. Greg Sapire  
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**Representing Penske Truck Leasing**

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**Certificate of Service**  
**Continued**

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**Representing the Office of Public Interest**

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**TCEQ Alternative Dispute Resolution**

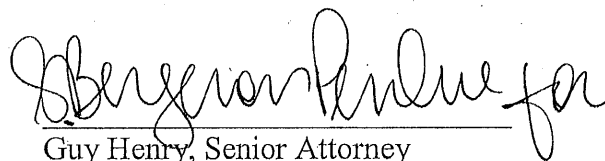
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**Office of Public Assistance**

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**Office of the Attorney General**

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